

Approved: September 16, 2015
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IPSWICH CONSERVATION COMMISSION
Meeting Minutes
August 19, 2015

Pursuant to a written notice posted by the Town Clerk and delivered to all Conservation Commission members, a meeting was held Wednesday, 7:00 p.m. in Room A of the Ipswich Town Hall. Members present were Chairman Jennifer Hughes, Vice-Chair Sissy ffolliott, Commissioners David Standley, Catherine Carney-Feldman, William McDavitt. Also present was Agent Alicia Geilen and Recording Secretary Cathy Miaskiewicz. Absent with prior notice were Commissioners Brian O'Neill and Michele Hunton and Associate Commissioner Raymond Putnam.

DEFINITION INDEX:

BVW - Bordering Vegetative Wetland

COC – Certificate of Compliance

CR – Conservation Restriction

DEP - Department of Environmental Protection

EO – Enforcement Order

ICC – Ipswich Conservation Commission

NOI – Notice of Intent

NDZ – No-Disturbance Zone

O & M Plan – Operations and Maintenance Plan: An O&M plan is an indication that a facility is in continued compliance with applicable regulations and permit conditions

OOC – Order of Conditions

ORAD – Order of Resource Area Delineation

RDA – Request for Determination of Applicability (*below is a list of possible outcomes for RDAs*)

Negative #2 Determination– This is an approval for work in in resource areas

Negative #3 Determination– This is an approval for work in in buffer zones

Negative #5 Determination – This is approval for work that meets the requirements of an exception under the WPA

Negative #6 Determination– This is an approval for work under the Ipswich Wetland Protection Bylaw

Positive Determination – This is a denial requiring an NOI to be filed should the applicant wish to pursue

RPA - Riverfront Protection Act

WPA – Massachusetts Wetlands Protection Act (310 CMR 10.00 *et seq.*)

Citizen's Queries:

MATTER: 88 County Road, Hutton – 88 County Road, “Goats to Go” for invasive plant management in jurisdiction

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DISCUSSION: Present was Lauren Hutton. Ms. Hutton presented her query to hire “Goats To Go” to help eat the invasives that are rapidly choking both the BZ and Wetland area. Per her handout, goats would be penned by a removable electric fence and would eat non-native vegetation in a few days. Droppings would be nominal, and would be accomplished in the dry season. Chairman Hughes stated that some type of filing would be required. She wanted Ms. Hutton to know that some of the species would come back even stronger when cut or eaten, because this solution does not get to the root. She recommended that Ms. Hutton talk to a wetland scientist with experience in this area. Agent Geilen recommended filing an RDA. Commissioner Standley was concerned that they would also eat the non-invasive plants as well. Chairman Hughes suggested Ms. Hutton establish an alternative long-term plan.
RECOMMENDATION OF AGENT: <i>None</i>
MOTION: ♦ N/A
ACTION ITEMS / SPECIAL INSTRUCTIONS: ❖ <i>None</i>
DOCUMENT LIST: <i>Ipswich Junction Existing and Ipswich Junction Proposed plans, not dated.</i>

MATTER: 116 County Road, Catamount Management – for guidance on “Change in Use” policy.
DISCUSSION: Present was Peter Pommersheim of Meridian Associates. Mr. Pommersheim wanted advice on the “Change in Use” policy, related to the mandatory subzones. Agent Geilen presented the policy and thought since it was commercial to commercial there would be no change in use. Chairman Hughes agreed. Mr. Pommersheim showed slides of the proposed buildings, which showed total impervious surface should be reduced.
RECOMMENDATION OF AGENT: <i>None</i>
MOTION: ♦ N/A
ACTION ITEMS / SPECIAL INSTRUCTIONS: ❖ <i>None</i>
DOCUMENT LIST: <i>None.</i>

Ongoing Matters Being Continued to FUTURE Sessions:

MATTER: 36-424: 17 Bayview Road, Hughes Trust request for Certificate of Compliance. <i>Request continuance to 9/16/15</i>
DISCUSSION: There was no one present for this matter. The applicant had requested a continuance.
RECOMMENDATION OF AGENT: <i>To continue to September 16, 2015.</i>
MOTION: ♦ A motion was made by Commissioner Carney-Feldman to continue to September 16, 2015. The motion was seconded by Commissioner Standley and passed unanimously. Chairman Hughes was recused.
ACTION ITEMS / SPECIAL INSTRUCTIONS: ❖ <i>None</i>

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DOCUMENT LIST:

Continuation request.

Ongoing Matters for THIS Sessions:

MATTER: 36-1264: Charles D. Vose for work at **68 Linebrook Road** shown on **Tax Map: 30C Lot: 6A** for an **ABBREVIATED NOTICE OF INTENT** to **expand existing deck by 115 square feet** in jurisdictional areas.

DISCUSSION: Present were Charles and Louise Vose. Agent Geilen gave a review of the site visit, where the Voses provided documentation that the gazebo dates back to the 1970's (prior to the WPA permitting process). [Discussion: location of wetland line on the plan versus on the ground.] The Commission felt the line shown on the plan was overly conservative, but Mr. and Mrs. Vose were content to let it stay as previously delineated. This puts the deck expansion in the NBZ, requiring mitigation. Agent Geilen recommended a permanent, NDZ as mitigation behind the vegetable garden. [Discussion: BVW historically used as lawn at this and other properties in town.] Chairman Hughes noted an appropriate NDZ would be 10' upgradient of the current edge of mowing. Commissioner Carney-Feldman suggested installing three posts and/or boulder with NDZ signs. A waiver was requested for the NDZ. Chairman Hughes suggested specifying that the area will not be cut or maintained within the Special Conditions.

RECOMMENDATION OF AGENT:

Close public hearing and issue a Positive OOC with Special Conditions.

MOTION:

♦ A motion was made by Commissioner Standley to approve the waiver for NBZ as requested. The motion was seconded by Commissioner McDavitt and passed unanimously.

♦ A motion was made by Commissioner Carney-Feldman to close the public hearing and issue a Positive OOC with special conditions to be signed on September 2, 2015. The motion was seconded by Vice-Chair ffolliott and passed unanimously.

ACTION ITEMS / SPECIAL INSTRUCTIONS:

❖ *NDZ area will not be cut or maintained.*

DOCUMENT LIST:

Mandatory Pre-filing Checklist, WPA Form 4A – Abbreviated Notice of Resource Area Delineation, NOI Wetland Fee Transmittal Form, Ipswich Wetlands Protection By-law Filing Fee Calculation Worksheet, Plan entitled "Site Plan" dated 6/18/15 prepared by Northgate Survey Services, Legal Ad and Locis Map, Notification of Abutters, Abutters List, Affidavit of Service, deck sketch and waiver request for work in the no-disturbance zone.

New Public Hearings: Requests for Determination of Applicability:

MATTER: Little Neck Condo Association, Inc. for work at **the intersection of Plum Sound Road and Bay Road** shown on **Tax Map 24C, Lot 69** for a **REQUEST FOR DETERMINATION OF APPLICABILITY** to replace existing plantings with native plantings in jurisdictional areas.

DISCUSSION: Present were Linda Saunders and Billy Welch from the Little Neck Condo Association. Ms. Saunders gave a review of the matter. Commissioner Carney-Feldman asked if Ms. Saunders researched the replacement species and questioned some of the choices and gave some recommendations. Agent Geilen will give the applicant a list of appropriate species. All plants must be native. Any machines would be on the road only. Mr. Welch, project manager would be on site all day, all work on the dune/coastal bank would be by hand. Chairman Hughes stated they would give them alternatives to choose from if some were not available to purchase. Commissioner Standley asked about the outstanding OOCs with the Condo Association. Agent Geilen had sent an email to Mr. Doherty asking him to check into it. [Discussion on policy new filings when there is an open OOC.]

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RECOMMENDATION OF AGENT:

To issue a Negative Determination #2 and #6 requiring that the plant substitutions be native and approved by the Agent and to have a post inspection.

MOTION:

♦ A motion was made by Vice-Chair ffolliott to issue a Negative Determination #2 and #6 with conditions as stated by the Agent. The motion was seconded by Commissioner McDavitt and passed with one abstention by Commissioner Standley.

ACTION ITEMS / SPECIAL INSTRUCTIONS:

❖ *Plant substitutions to be native and approved by the Agent and post construction inspection required.*

DOCUMENT LIST:

Mandatory pre-filing checklist, WPA Form 1 Request for Determination of Applicability Form, Legal Ad, Locus Map, Plan entitled "The Condominium at Little Neck" dated 3/30/12 and prepared by Donohoe and Parkhurst, Inc. (Marked up as Plot Plan Attachment A), Attachment B "Landscape Design" and photos.

MATTER: Charles Shurcliff for work at **203 Argilla Road** shown on **Tax Map 56, Lot 8** for a **REQUEST FOR DETERMINATION OF APPLICABILITY** to install a sewer disposal system in jurisdictional areas.

DISCUSSION: There was no one present for this matter. The applicant had requested continuance.

RECOMMENDATION OF AGENT:

To continue to September 2, 2015 to allow for a review of the wetland delineation.

MOTION:

♦ A motion was made by Commissioner Carney-Feldman to continue to September 2, 2015. The motion was seconded by Vice-Chair ffolliott and passed unanimously.

ACTION ITEMS / SPECIAL INSTRUCTIONS:

❖ *None*

DOCUMENT LIST:

Mandatory pre-filing checklist, WPA Form 1 Request for Determination of Applicability Form, Legal Ad, Locus Map, Plan entitled "Replacement Sewage Disposal System Plan" dated 6/2/15 and prepared by Gateway Consulting Inc.

New Public Hearings/Notice of Intent and Formal Amendments:

MATTER: 36-1265: George A. Soffron for work at **1 Jay Road** shown on **Tax Map: 15B Lot: 8A 0** for a **NOTICE OF INTENT** for **renovations of an existing structure, appurtenances and new septic system** in jurisdictional areas.

DISCUSSION: Present were Laura Krause from DeRosa Environmental Consulting, Inc. and Larry Graham of H.L. Graham Associates. Ms. Krause presented the matter with a PowerPoint presentation. [Discussion: existing conditions, proposed repair/in-kind replacement and new activities.] Mr. Graham presented the SWM design. [Discussion: stormwater swale and infiltration overflow outlet, infiltrator to sit partially sit in water table.] The Commission asked the applicant to consider alternate infiltration design to provide separation to water table. Chairman Hughes asked about soils for infiltration. Mr. Graham gave an overview of the soil testing that was done. [Discussion: infiltration unit details.] Commissioner Standley questioned if this was a raze-and-rebuild and not a renovation and he suggested adding conditions for construction. Mr. Graham stated that the foundation will be saved where possible. Chairman Hughes recommended haybales and entrenched silt fence instead of silt socks, due the slope. The applicant had requested waivers for NBZ and NDZ. [Discussion: Native plantings needed at top of coastal bank/snow storage.]

RECOMMENDATION OF AGENT:

To continue to September 2, 2015 to allow time for a site visit.

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MOTION:

♦ **A motion was made by Vice-Chair ffolliott to continue to September 2, 2015. The motion was seconded by Commissioner McDavitt and passed unanimously.**

ACTION ITEMS / SPECIAL INSTRUCTIONS:

❖ *Site visit scheduled for 5:00 p.m. on August 24, 2015. Special conditions to protect coastal bank (entrenched silt fence and staked hay bales, not silt socks).*

DOCUMENT LIST:

Packet prepared by DeRosa Environmental including: Mandatory Pre-filing Checklist, WPA Form 3 Notice of Intent Application, NOI Wetland Fee Transmittal Form, Ipswich Wetlands Protection By-law Filing Fee Calculation Worksheet, Plan entitled "Permit Plan" dated 7/29/15 and prepared by Graham Associates, Figure 2C Rendered Site Plan (a) and (b), Legal Ad and Locus Map, Notification of Abutters, Abutters List, Affidavit of Service.

MATTER: 36-1266: Mike Wallis for work at **4 Nuthatch Road** shown on **Tax Map: 15B Lot: 026** for an **after-the-fact NOTICE OF INTENT** for **site improvements made** in jurisdictional areas.

DISCUSSION: Present was Larry Graham of H. L. Graham Associates and Attorney Richard (Chip) Nylen. Mr. Graham presented the After-the-Fact project. [Discussion of EO/after-the-fact NOI.] Chairman Hughes asked about the horseshoe pit and thought it was going to be removed. Mr. Graham requested that the retaining wall associated with the horseshoe pit be allowed to stay, as this would discourage disturbance of the Mitigation Area. [Discussion: wildflower seed mix inappropriate; salt-tolerant, native shrub and herbaceous species planted in dense clumps needed]. Commissioner Standley did not see a problem with keeping the horseshoe pit retaining wall. NBZ and NDZ waivers were requested. It was recommended to have three NDZ markers: one at either property line and one at the steps to the beach. Mr. Nylen discussed the status of the EO and a possible appeal of it by his client if it is not lifted. He asked the ICC to remove the EO since the NOI was before them so that he would not have to appeal. Chairman Hughes stated that there has to be something that will hold the applicant to be required to do the work. [Discussion: compliance process]. Chairman Hughes suggested including a findings in OOC about the history and why this OOC is issued, as well as a special condition that mitigation work was not optional. Mr. Nylen understood no COCs would be issued until all restoration and mitigation work was completed.

RECOMMENDATION OF AGENT:

To continue to September 2, 2015 for receipt of an improved mitigation plan.

MOTION:

♦ **A motion was made by Commissioner Standley to approve the waivers for NBZ and NDZ as requested. The motion was seconded by Vice-Chair ffolliott and passed unanimously.**

♦ **A motion was made by Commissioner McDavitt to rescind the current EO. The motion was seconded by Commissioner Standley and passed with one abstention by Commissioner Carney-Feldman.**

♦ **A motion was made by Commissioner Carney-Feldman to continue to September 2, 2015 for a new mitigation plan and to seek town counsel. The motion was seconded by Vice-Chair ffolliott and passed unanimously.**

ACTION ITEMS / SPECIAL INSTRUCTIONS:

❖ *Rescind current EO. Findings in OOC to state the history/why this OOC is issued, and special condition that mitigation work is not optional.*

DOCUMENT LIST:

Mandatory Pre-filing Checklist, WPA Form 3 Notice of Intent Application, NOI Wetland Fee Transmittal Form, Ipswich Wetlands Protection By-law Filing Fee Calculation Worksheet, Plan entitled "Permit Plan" dated 10/30/14 and prepared by Graham Associates, Inc., Legal Ad and Locus Map, Notification of Abutters, Abutters List, Affidavit of Service.

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Other Business:

MATTER: Possible Land Donation – 6.15 acre parcel in Marsh Hundreds (including a portion of “Norton Island”)
DISCUSSION: Agent Geilen gave an overview of the land, shaped like a triangle on Jones Creek. The town is working on getting the title.
RECOMMENDATION OF AGENT: <i>To vote to accept this land under the Care, Custody and Control of the ICC.</i>
MOTION: <p style="text-align: center;">♦ A motion was made by Commissioner Carney-Feldman to accept the land under the care, custody and control of the ICC if no problems are found. The motion was seconded by Vice-Chair ffolliott and passed unanimously.</p>
ACTION ITEMS / SPECIAL INSTRUCTIONS: <p style="text-align: center;">❖ None</p>
DOCUMENT LIST: <i>None</i>

MATTER: 36-1255: YMCA , 110 County Road. Request for a Minor Modification for a reduced building footprint.
DISCUSSION: There was no one present for this matter. Agent Geilen gave an overview of the matter.
RECOMMENDATION OF AGENT: <i>To issue a Minor Modification.</i>
MOTION: <p style="text-align: center;">♦ A motion was made by Commissioner Standley to issue a Minor Modification as requested. The motion was seconded by Commissioner Carney-Feldman and passed unanimously.</p>
ACTION ITEMS / SPECIAL INSTRUCTIONS: <p style="text-align: center;">❖ None</p>
DOCUMENT LIST: <i>Request for Minor Modification Letter dated 8/17/15 and prepared by Meridian Associates, Inc., Ipswich Wetlands Protection By-law Filing Fee Calculation Worksheet, Modified Plan entitled, "Site Grading Plan" prepared by Meridian Associates, Inc. dated 6/23/15 and "Site Grading Plan (C2)" prepared by Meridian Associates Inc., dated 8/20/15.</i>

Enforcement Actions:

MATTER: 9 Colby Rd , Enforcement Update, <i>revised EO for signature.</i>
DISCUSSION: Agent Geilen stated that the applicant submitted their restoration plan.
RECOMMENDATION OF AGENT: <i>None</i>
MOTION: <p style="text-align: center;">♦ N/A</p>
ACTION ITEMS / SPECIAL INSTRUCTIONS: <p style="text-align: center;">❖ None</p>
DOCUMENT LIST: <i>None</i>

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Requests for Certificates of Compliance:

MATTER: 36-434: 16 North Ridge Road, Hurley request for Certificate of Compliance.
<p>DISCUSSION: Present was Larry Graham of H. L. Graham Associates for Mr. Frank Hurley's COC. The site visit the previous week was disused. Agent Geilen stated that an EO was needed to allow removal of concrete steps beyond the seawall and concrete in tidal flats, and restore this area to natural conditions. Chairman Hughes stated that the concrete steps were in the resource area and need to come out. They need to file an after-the-fact NOI with triple fees for remaining steps to stay. Agent Geilen stated that the railroad ties in the mud flats should be part of the mitigation for the AFT approval, as well as possible invasive plant removal and native plantings. Agent Geilen reviewed a draft EO, which required submitting a restoration plan by September 9, 2015, with all work completed April 1, 2016. An ATF NOI would need to be submitted by March 1, 2016, for the remaining steps with mitigation, and could include additional work the new homeowners wanted (e.g., raze and rebuild). [Discussion: concrete in tidal flats, footings of the seawall, approved location of seawall versus actual location].</p>
<p>RECOMMENDATION OF AGENT: <i>To issue an EO that requires removal of steps beyond the seawall and concrete in tidal flats, as well as railroad ties in tidal flats and restoration of tidal flats with salt marsh grass. Restoration Plan to be submitted by September 9, 2015 and work completed by April 1, 2016, ATF NOI to be submitted by March 1, 2016. COC on hold until restoration work is completed.</i></p>
<p>MOTION: ♦ A motion was made by Commissioner Carney-Feldman to issue an EO as discussed. The motion was seconded by Commissioner McDavitt and passed unanimously.</p>
<p>ACTION ITEMS / SPECIAL INSTRUCTIONS: ❖ None</p>
<p>DOCUMENT LIST: <i>COC request, As-built plan entitled "Plan to accompany COC" dated 7/29/15 prepared by Graham Associates, Inc. and plan entitled "L.F. Hurley Residence" dated 10/19/82 and prepared by V.T. Mooradian.</i></p>

MATTER: 36-245: End of Bowdoin Road at Clark Beach, Association of Great Neck, request for Certificate of Compliance.
<p>DISCUSSION: Present was Cricket Wilbur, representative for the Association of Great Neck. Agent Geilen stated that this was for paving of the Clark Road entrance and a new pram rack location. No as-built required.</p>
<p>RECOMMENDATION OF AGENT: <i>To issue a full and final COC.</i></p>
<p>MOTION: ♦ A motion was made by Commissioner Standley to issue a full and final COC. The motion was seconded by Commissioner Carney-Feldman and passed unanimously.</p>
<p>ACTION ITEMS / SPECIAL INSTRUCTIONS: ❖ None</p>
<p>DOCUMENT LIST: <i>COC request, As-built plan entitled "Plan of Proposed Maintenance Project" dated 12/1/84 and prepared by the Association of Great Neck.</i></p>

MATTER: 36-567: Clark Road, Association of Great Neck, request for Certificate of Compliance.
<p>DISCUSSION: Present was Cricket Wilbur, representative for the Association of Great Neck. Agent Geilen stated</p>

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that this was for repairs to the road from the Clark Road entrance and adding boulders on the beach side to prevent roadway erosion from overwash. She stated that everything had been recorded.
RECOMMENDATION OF AGENT: <i>To issue a full and final COC.</i>
MOTION: ♦ A motion was made by Commissioner Carney-Feldman to issue a full and final COC. The motion was seconded by Commissioner McDavitt and passed unanimously.
ACTION ITEMS / SPECIAL INSTRUCTIONS: ❖ None
DOCUMENT LIST: <i>COC request, As-built plan entitled "Clark Beach Road As-Built" dated 2/11/02 and prepared by the Bryant Associates, Inc.</i>

MATTER: 36-978/36-978A: End of Bowdoin Road at Clark Beach, Association of Great Neck, request for Certificate of Compliance.
DISCUSSION: Present was Cricket Wilbur, representative for the Association of Great Neck. Agent Geilen stated that this was for work to restore the creek flow from Clark Pond out to the ocean. All work was done, but the as-built plan was not created at that time. Since then, the dynamic estuarine system has changed naturally, making an as-built plan now inappropriate. A waiver of the as-built was requested. Agent Geilen did a site visit and everything looked good.
RECOMMENDATION OF AGENT: <i>To approve waiver of the as-built and issue a full and final COC.</i>
MOTION: ♦ A motion was made by Vice-Chair ffolliott to waive the requirement for the as-built plan. The motion was seconded by Commissioner Carney-Feldman and passed unanimously. ♦ A motion was made by Commissioner Standley to issue a full and final COC. The motion was seconded by Commissioner Carney-Feldman and passed unanimously.
ACTION ITEMS / SPECIAL INSTRUCTIONS: ❖ None
DOCUMENT LIST: <i>COC request, As-built plan entitled "Amended Topographic Plan of Land" and "Clark Pond Creek Restoration Option 2 - 15 Ft. Width" dated 1/11/07 and prepared by Vancura & Brennan.</i>

Approval of Minutes: 7/15/2015 and 8/5/2015

♦ A motion was made by Vice-Chair ffolliott to approve the minutes as amended for 7/15/2015 and 8/5/2015. The motion was seconded by Commissioner Standley and passed unanimously.

Document Signage: (No Vote Required)

- 36-1155: DPW, Linebrook, Pineswamp, Fellow and Heartbreak Roads culvert replacement. *Re-sign for recording purposes*
- 36-1155A: DPW, Linebrook, Pineswamp, Fellow and Heartbreak Roads culvert replacement. *Re-sign for recording purposes*

Ipswich Wetland Protection By-Law Change Hearing

Agent Geilen read the proposed By-law changes.

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(note: proposed revisions are redlined.)

1. PROPOSED ARTICLE: SECTION 2: JURISDICTION

Except as permitted by the Conservation Commission or as provided in this By-Law, no person shall remove soil or vegetation from, fill, dredge, build upon, discharge into, or alter the following Resource Areas:

Coastal wetlands,

Freshwater wetlands,

Bank, beach, dune, marsh, meadow, swamp, or flat bordering on a water body;

or land within 100 feet of these resource areas;

or land under a water body;

or land subject to flooding, tidal action or coastal storm flowage;

or vernal pools within a wetland resource area;

or land within 150 feet of the Parker River/Essex Bay Area of Critical Environmental Concern;

or Riverfront Area as defined by M.G.L. Chapter 131 §40, as most recently amended.

Any activity proposed or undertaken outside the above areas is not subject to regulation under this By-Law and does not require the filing of a permit application unless and until that activity actually alters any of the said resource areas.

2. PROPOSED ARTICLE: SECTION 3: DEFINITIONS, EXEMPTIONS, TIME FRAMES, REQUIREMENTS, AND PERFORMANCE STANDARDS

Except as otherwise provided in this By-Law or regulations of the Commission, including but not limited to Section 19 of this By-law, the definitions of terms, exemptions, limited projects, performance standards, time frames, and requirements in this By-Law shall be as set forth in the Wetlands Protection Act, MGL Chapter 131, Section 40, and in 310 CMR 10.00 ("the State regulations") as may be amended from time to time.

Agent Geilen noted that she had inadvertently written "Great Bay ACEC" instead of Great Marsh ACEC and recommended it be corrected.

3. PROPOSED ARTICLE: SECTION 3: DEFINITIONS, EXEMPTIONS, TIME FRAMES, REQUIREMENTS, AND PERFORMANCE STANDARDS

The term "~~Parker River/Essex Bay~~ Great Marsh Area of Critical Environmental Concern" shall include that portion of the state-approved "~~Parker River/Essex Bay~~ Great Marsh ACEC identified in the publication entitled Coastal Areas of Critical Concern prepared by the Massachusetts Coastal Zone Management office, revised August 1989, and as further shown on a map entitled Parker River/Essex Bay Great Marsh Area of Critical Environmental Concern, scale 1" = 1/4 mile, prepared by the Office of Coastal Zone Management as an enlarged composite of four maps from the United States Geological Service.

4. PROPOSED ARTICLE: SECTION 3: DEFINITIONS, EXEMPTIONS, TIME FRAMES, REQUIREMENTS, AND PERFORMANCE STANDARDS

The term "Fresh Water Wetland" shall include any marsh, bog, swamp or wet meadow, whether or not it borders on a water body. Said wetland may be defined by its vegetational community, soil composition or hydrologic regime. A wetland not bordering on a body of water and not exceeding 5000 square feet shall not be subject to protection under this By-Law, unless said wetland is or can be certified as a Vernal Pool, as established by Massachusetts Natural Heritage and Endangered Species Program's "Guidelines for Certification of Vernal Pool Habitat."

5. PROPOSED ARTICLE: SECTION 3: DEFINITIONS, EXEMPTIONS, TIME FRAMES, REQUIREMENTS, AND PERFORMANCE STANDARDS

The term "Alter" shall mean to change the condition of any area subject to protection under this By-Law. Examples of alterations include, but are not limited to the following:

- a) Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
- b) Changing of pre-existing drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;

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- c) Drainage or other disturbances of water level or water table;
- d) Dumping, discharging or filling with any material which may degrade water quality;
- e) Placing of fill, or removal of material, which would alter elevation;
- f) Driving of piles, erection or repair of buildings, or structures of any kind;
- g) Placing of obstructions or other dam-like structures in water;
- h) Destruction of plant life ~~including cutting of more than five mature trees;~~
- i) Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water;
- j) Any activities, changes or work which may cause or tend to contribute to pollution of any resource area under the jurisdiction of the Commission;
- k) Application of pesticides and/or herbicides.

Chairman Hughes requested that the below section be amended to add the clarifying words, "Wetland Protection Act" between the words "state" and "forms". Chairman also requested that the words, "or if necessary" be added to the statement about submitting applications to the Planning Department.

6. PROPOSED ARTICLE: SECTION 4. FILING PROCEDURE

A permit application ("Application" ~~or "Notice"~~), which may be identical in format ~~to a Notice of Intent~~ state Wetland Protection Act forms, as required pursuant to MGL Chapter 131 Section 40, shall, at a minimum, have the same content as that required by ~~"Notice of Intent"~~ these forms. The application shall include such plans as may be necessary to describe the boundaries of wetland resource areas, the proposed activity, and its effects and potential impacts upon the ability of the resource area to protect the interests identified in this By-Law.

No work shall begin until the permit, which may be the same as ~~the Order of Conditions permits~~ issued under MGL Chapter 131 Section 40, has been issued, all appeal periods have expired, and said permit, if required by MGL Chapter 131 Section 40, has been recorded with the Registry of Deeds or Land Court, in accordance with Section 18 of this By-Law.

The application shall be sent by certified mail, return receipt, or hand delivered to the Ipswich Conservation Commission at the Town Hall, ~~or if necessary to the Town Clerk~~ Planning Department. No such application shall be sent before all permits, variances, and approvals, except a building permit, required by local By-Law with respect to the proposed activity have been obtained except that such ~~notice application~~ may be filed, at the option of the applicant, after the filing of an application or applications for said permit, variances, and approvals; provided, that such ~~notice application~~ shall include any information submitted in connection with such permits, variances, and approvals which is necessary to describe the effect of the proposed activity on the interests protected by this By-Law.

Brief narrative: The MA Department of Environmental Protection has added three new forms since the By-Law was passed, including: Abbreviated Notice of Resource Area Delineation, Restoration Notice of Intent. The By-Law, as currently written does not include these forms, or the Request for Determination of Applicability. The changes are intended to be inclusive of any permit application received by the Commission, and any permits issued by the Commission, and allow for additional forms which may be required in the future by the state of the Commission under their respective regulations, such as a tree cutting permit. In addition, the alternate location for submitting applications was changed, as the Town Clerk does not accept filings for the Commission.

Estimated Cost: None.

7. SECTION 9: PERMITS AND CONDITIONS

The Commission shall issue a permit to the applicant or, if in the opinion of the Commission the proposed work described in the application may adversely affect the interests protected by this By-Law, deny such permit within twenty-one (21) calendar days after the conclusion of the public hearing or such further time as may be agreed upon at the written request of the applicant. The Commission shall set forth in what manner the interests of this By-Law are affected in the permit or denial. The Commission may impose such conditions as it determines are reasonable to protect those interests. All work shall conform to the conditions set forth in the permit.

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In the event of a denial of an application, the Commission shall set forth in detail the reasons for the denial. ~~The Commission shall then file its decision with the Town Clerk, a copy of which shall be recorded in a book kept for the purpose, and shall send notice of such action to the applicant by certified mail, return receipt requested, to the address stated on the application.~~

Permits shall expire three years from the date of issuance. An applicant may apply for an extension before thirty (30) calendar days prior to the expiration of the permit or extension and the Commission may grant extensions for one or more periods of up to three years each. ~~Notice of any extensions of time granted an applicant shall be filed with the Town Clerk.~~

8. SECTION 12: EMERGENCY PROJECTS

The notice provisions of this By-Law shall not apply to emergency projects initiated by the Town of Ipswich or other governmental Boards, Agencies, or Commissions necessary for the immediate protection of public health, safety and welfare of the citizens of Ipswich. However, the Commission shall be notified within 24 hours of the commencement of such projects. In the absence of members of the Commission, notification may be made to the Board of Selectmen, Town Manager, or Board of Health. A certificate of emergency condition shall be filed with the Commission by the Board, Town Manager, Agency, or Commission which authorized the project, within fourteen (14) days after the initiation of work, ~~and a copy thereof shall be recorded by the Town Clerk.~~

9. PROPOSED ARTICLE: SECTION 19: EFFECTIVE DATE

This By-Law shall not apply to those projects and activities for which a Notice of Intent has been filed on or before August 15, 1990, and for which a Final Order of Conditions is ultimately issued by the Commission or the Department of Environmental Protection and to those projects for which an Order of Conditions is issued approving the project on or before September 1, 1990. The By-Law shall apply to all other projects and activities.

This By-Law shall not apply to those projects or activities which are exempt from the provisions of the Wetlands Protection Act, Massachusetts General Laws, Chapter 131, Section 40, as amended ~~and 310 CMR 10.00, as amended.~~ This By-Law does not exempt those activities cited in 310 CMR 10.02(2)(b), as may be amended, unless specifically cited in the Ipswich Wetland Protection By-Law Rules and Regulations.

It was moved by Commissioner Standley and seconded by Commissioner Carney-Feldman to approve the draft bylaw changes as amended. The motion passed unanimously. The Agent will submit the proposed changes to the Town Manager for vote at Special Town Meeting, to be held October 27, 2015.

Adjournment:

♦ A motion was made to adjourn by Vice-Chair ffolliott, and seconded by Commissioner McDavitt. The motion passed unanimously and the meeting was adjourned at 9:35 p.m.

Respectfully submitted,



Cathy Miaskiewicz
Recording Secretary

These minutes are the summary of a taped meeting and of secretarial notes. As such, the Ipswich Conservation Commission reserves the right to supplement these minutes with tapes and vice versa, to reflect the proceedings. The Ipswich Conservation Commission does not guarantee the quality of the tapes, nor does it exclusively rely upon them.